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PATENT APPLICATION  
Attorney Docket No: 10004344-1

**IN THE UNITED STATES PATENT  
AND TRADEMARK OFFICE**

**Inventor: Michael J. Bialek**

**Confirmation No.: 3290**

**Serial No: 09/627,535**

**Examiner: Chau T. Nguyen**

**Filing Date: 07/28/2000**

**Group Art Unit: 2176**

**Title: Method of Assembling Content from Content Suppliers**

Assistant Commissioner for Patents  
Washington, D.C. 20231

**APPELLANT'S REPLY BRIEF  
UNDER 37 C.F.R. §41.41**

To The Commissioner of Patents and Trademarks:

Applicant hereby responds to Examiner's Answer mailed 05/02/06. Examiner has deconstructed Appellant's argument into three Groups and various subgroups labeled A, B, etc. Appellant's response maintains this reorganization for ease of comparison without agreeing that such reorganization is the correct method of analysis. Appellant's response is consistent with Appellant's Substitute Brief and is directed to the Group 1, Subgroup A-D and the Group 2, Subgroup A and B of Examiner's Answer.

**(1.A)**

Examiner believes the limitation regarding a variable URL has not been claimed in the rejected claims. Appellant respectfully disagrees. Specifically, claim 1 requires:

- 1) "defining a locator template having a plurality of parameter slots..."
- 2) "recalling stored parameter values and inserting said parameter values in said parameter slots to create a provider resource locator..."

Examiner has not been clear whether it is the variability or Appellant's characterization of the provider resource locator as a URL that is troublesome. With

regard to variability, the words of the claim sufficiently describe variability of the resource locator: a *template* / with *parameter slots* / for which *values* / are *inserted*. With regard to URL/provider resource locator, Appellant is entitled to be its own lexicographer (*See*, MPEP §608.01(g) ("An applicant is ordinarily permitted to use his or her own terminology, as long as it can be understood...The description is a dictionary for the claims and should provide clear support or antecedent basis for all terms used in the claims."), Novo Nordisk of North America, Inc. v. Genentech, Inc., 77 F.3d 1364, 37 USPQ2d 1773 (Fed. Cir. 1996), Beachcombers, International, Inc. v. Wildwood Creative Products, Inc., 31 F.3d 1154, 31 USPQ2d 1653 (Fed. Cir. 1994), and Hormone Research Foundation, Inc. v. Genentech, Inc., 904 F.2d 1558, 15 USPQ2d 1039 (Fed. Cir. 1990), cert. dismissed 111 S. Ct. 1434 (1991)). Appellant has referenced the term "provider resource locator" to a preferred embodiment of "URL" at page 12, lines 28-29 in the specification. Appellant believes it is entitled to at least the equivalency of "URL" to "provider resource locator".

Examiner rightfully may more broadly construe "provider resource locator", and has done so in the use of Peterson (US Patent No. 6,594,682 to Peterson et al.) as a reference. In the Examiner's Answer mailed 05/02/2006, Examiner again explained the reason for the rejection of the claims under 35 USC 102(e) by equating the teachings of Peterson to Appellant's claims. However, the two are simply not equivalent and the rejection is improper.

Peterson discloses a graphical user interface as a "scheduling viewer" (col. 9, lines 5-8) or "index viewer" (col. 10, lines 6-8), which, among other things, allows a user to elect certain channels by marking a channel in the index viewer or selecting a schedule in the scheduling viewer. FIG. 3 helps place the graphical user interface in context by identifying the subsystems in Peterson's browser 90: First, a scheduling subsystem 94 that includes a scheduler module 96 (that sets when Web content is to be collected (col. 8, lines 63-65) and supports a graphical user interface UI 100 (scheduling viewer) and UI 122 (index viewer) (col. 9, lines 1-2)) and a notification generator 98. Second, a delivery

subsystem 94 that includes a web fetching program 110 (that uses URLs to locate index and web content (col. 9, lines 37-41)), a broadcast web rebuilder 112, and a multicast listener 114.

With the foregoing list of modules from Peterson, Examiner has proposed a hypothetical equivalence to Appellant's claims. Examiner equates the "certain channels" of Peterson's graphical user interface index viewer UI 122 to Appellant's "parameter slots" and the graphical user interface itself is equated to Appellant's "locator template". The equivalence breaks down when the details of, for example, claim 1 are studied:

- "Obtaining subscriber's content definition" is hypothetically equated to Peterson's disclosure of "the user can elect certain channels and content by appropriately marking them in the index viewer UI 122". Col. 10, lines 14-16.

- "Defining a locator template having a plurality of parameter slots" is hypothetically equated to Peterson's "The scheduling UI 100 has a field 102 that permits the user to define and name different schedules. The UI 100 also has multiple parameters 104 that the user can elect to establish various collection times." Col. 9, lines 5-8. "[A]n index viewer UI 122 ... presents the Web content in a hierarchical organization... The user can elect certain channels and content by appropriately marking them in the index viewer UI 122." Col. 10, lines 14-16.

- The locator template "...being compatible with a resource locator of a content provider having content meeting said content definition.": Peterson explains "The Web fetching program 110 uses URLs to locate the index and Web content and downloads the found information." Col. 9, lines 39-41. The only available equivalence to Appellant's content provider resource locator is Peterson's URL - but this equivalence is inconsistent with the hypothetical equation of locator template with the graphical user interface.

• "Recalling stored parameter values and inserting said parameter values in said parameter slots to create a provider resource locator": Peterson cannot do this and does not teach this since any user-marked channels are part of the browser graphical user interface. Peterson's delivery subsystem 94 utilizes an event notification that contains "one or more of the following types of information:

a channel reference

instructions telling the delivery subsystem which mechanism to use to obtain the date (e.g., fetching, broadcast, multicast)

one or more URLs

a multicast address

a wireless frequency (radio, TV, etc.)"

Col. 9, lines 21-30. Thus, Peterson does not teach or describe Appellant's invention as claimed in claim 1 and therefore Examiner's rejection under §102(e) is improper.

**(1.B)**

Examiner again takes issue with Appellant's discussion regarding URL. As stated above, the broader claim language of "provider resource locator" encompasses a URL. If Appellant should not be issued a patent on the broader language, Examiner should provide a reference sufficient under 35 USC 102(e) to preclude such a grant. Peterson does not provide such a reference for the reasons given above and the rejection under 35 USC 102(e) should be withdrawn.

**(1.C)**

Peterson's FIG. 1 illustrates a plurality of web servers (22M) capable of communicating with a plurality of clients (24N) via a distribution system (26). "[T]he Web servers provide both the Web content 28 and an index 30 to the Web content." Col. 6, lines 17-19. "The client-server system 20 supports a two-phase delivery, regardless of

which type of distribution system is employed. The first phase is to deliver the index 30. The index may originate from one server, or it may be a collection of elements originating from multiple servers. The index can then be used to identify the Web content 28 to be delivered to the client. The second phase is to deliver the Web content 28. The Web content may originate from one server, or from multiple servers." Col. 6, lines 27-37. "FIG. 2 shows an example implementation of the client computer, referenced generally as number 24. The client is illustrated as being implemented as a general-purpose computer. The client 24 includes a processing unit 32, a system memory 34, and a system bus 36 that interconnects various system components, including the system memory 34 to the processing unit 32." Col. 7, lines 25-30. "For purposes of continuing discussion, the client-based system is described in the context of being incorporated into a Web browser, such as the Internet Explorer browser available from Microsoft Corporation." Col. 8, lines 46-49. "FIG. 4 shows an example of a scheduling UI 100 that allows the user to specify when the browser should collect content from the Internet." Col. 9, lines 2-5. "When the delivery subsystem 94 retrieves the index 30 and Web content 28, it stores them in a local cache 116. The cache 116 is implemented in the hard disk drive 44 of the client computer 24, to provide persistent storage of the data." Col. 9, lines 53-56.

Integrating all of the foregoing disclosure, it can be understood that it is Peterson's user's computer system that assembles the content after various sources deliver their individual pieces of content. The present invention, as claimed for example in claim 1, utilizes the step of "assembling at least said received content for delivery from the document server to the subscriber's terminal". The content is assembled before delivery, rather than after.

**(1.D)**

Examiner equates Appellant's "parameter slots" to Peterson's "channels". Peterson is very clear in a definition of "channel": A "channel is an organizational tool

that defines how content is bundled for presentation to the user. From the user perspective, the channel defines a content class, even though the content may be the aggregation of data from many different sources. As possible examples, a channel might represent the content that is available from a single Web site, such as a channel for the popular Web site 'ESPN SportsZone'. The channel might alternatively consist of a group of like content that the user personally assembles and which is gathered from multiple sources. For instance, the user might create a 'Basketball' channel that collects and presents basketball-related content from various sources like ESPN, CNN, MSNBC, and the like.

"The channel might further represent a physical transport, such as a channel associated with a multicast address or a channel associated with a particular airwave frequency. In this regard, the term channel is akin to the familiar TV notion of channel. But, the term 'channel' is not restricted nor necessarily tied to the underlying transport mechanism and hence is more general than the traditional TV channel." Col. 7, lines 1-22.

Examiner's equation of "channel" to Appellant's "parameter slots" is misplaced. In the present invention, populated parameter slots create a provider resource locator that is transmitted on the network to cause content to be received from the content provider (see claim 1, for example). Peterson's channel, on the other hand, is the mechanism for presentation of content to the user.

**(2.A)**

Appellant respectfully disagrees that Peterson discloses a subscriber profile that contains a delivery time. "The scheduler 96 supports a graphical user interface (UI) that enables a user to schedule such time events. FIG. 4 shows an example of a scheduling UI 100 that allows the user to specify when the browser should collect content from the

Internet." Col. 9, lines 1-5. This is not the time *assembled* content is *delivered* to the subscriber's terminal in accordance with Appellant's claims. It is the time Peterson's browser *collects* content, which content is later filtered and presented to the user. (See, Peterson's Exemplary Scenario at col. 11, lines 13-46).

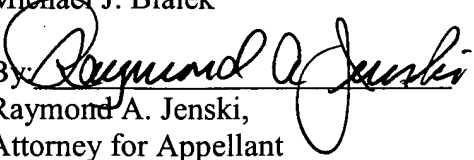
**(2.B)**

Examiner states that the claims do not claim the delivering of a report to the user at the scheduled time *without human intervention*. Appellant agrees; "without human intervention" is not found in the claims and Appellant strikes that phrase from Appellant's argument found at page 11, line 21 of Appellant's substitute brief.

In conclusion, Appellant continues to believe the claims of the present Application have been improperly rejected. Appellant respectfully requests that the rejections under 35 USC 102(e) and 35 US 103(a) be reversed and the present Application be returned to Examiner for allowance.

Respectfully Submitted,

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PATENT APPLICATION

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Inventor(s): Michael J Bialek et al

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Title: Method Of Assembling Content From Content Providers

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TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on May 2, 2006.

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

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